

Schanilec, Kevin

From: Graber, Kerry (ECY) <KGRA461@ECY.WA.GOV>
Sent: Tuesday, April 09, 2013 4:06 PM
To: Baron, Adam; Boyd, Andrew; Bartus, Dave
Cc: jpri461@ecy.wa.gov; Level, John (ATG); Downey, Scott
Subject: RE: Response to EPA comments on Ecology Order

Hi Adam,

Per our conversation today, John Level has not sent the agreed order with exhibit B over to DOE yet. I am not sure the exact timing for sending it to them, but John Level said he intends to send it over to you today or tomorrow.

In regard to your second item, I stand corrected. The NAIC report and violations concluded that the trenches were timely permitted as disposal units, but the storage units were not. Therefore the storage units were cited as having been added without authorization in your enforcement documents. Our agreed order exhibit B incorporates the latest list you provided, so everything related to the comment should be fine. Thanks. Kerry

From: Baron, Adam [mailto:Baron.Adam@epa.gov]
Sent: Tuesday, April 09, 2013 1:39 PM
To: Graber, Kerry (ECY); Boyd, Andrew; Bartus, Dave
Cc: Price, John (ECY); Level, John (ATG); Downey, Scott
Subject: Response to EPA comments on Ecology Order

Kerry/ John –

We appreciate your taking the time and effort to address each of those comments. I know that was a lot of work.

I've got two items of follow up on this:

- 1) EPA and DOE have a call Wednesday this week to talk about penalty, and then I'll be on the call with Ecology and DOE on Thursday morning. We anticipate in one or both of these forums that DOE will ask if we have reviewed Ecology's order and the milestones and are on board with all of the terms. It's difficult to say yes if we don't have the current draft of the order and milestones. Please share with us what you gave DOE.
- 2) In 21 on your list, 15 on Dave's, you indicate that EPA isn't including the 3 storage units around LLBG in our order. In fact we are. I provided you the most updated list about two weeks back that include those three storage areas. I think the confusion may have come from me saying that those areas would not have secondary containment issues because all the waste stored there should already meet LDR requirements.

Let me know if you need more. I'm around this afternoon, but pretty booked tomorrow through 3pm.

Adam Baron

Environmental Protection Specialist
U.S. EPA, Region 10 (OWW-136)
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-6361
baron.adam@epa.gov

From: Graber, Kerry (ECY) [<mailto:KGRA461@ECY.WA.GOV>]
Sent: Monday, April 08, 2013 5:44 PM
To: Baron, Adam; Boyd, Andrew; Bartus, Dave
Cc: jpri461@ecy.wa.gov; Level, John (ATG)
Subject:

Adam, Andy, and Dave,

John Price, John Level and I have reviewed each of your comments on Exhibit B of the agreed order. The comments were valuable and helped us improve the precision of the language as well as get clear about our intent with this enforcement. The result is a much improved enforcement document.

We worked off of a copy provided by Dave on March 19, 2013. Provided were 100 comments numbered 1 through 101 imbedded in the draft Exhibit B that contained comments from both Andy and Dave. (There is a “missing” comment 35, the numbers jump from 34 to 36.) There were also suggested edits of text within the document. We accepted most of these edits as is. The exception was when we decided to completely revise or remove a section of text.

Ecology agreed with 70 comments, and revisions were made to respond to them.

30 comments were considered and we either:

1. Concluded a comment did not require a response (e.g., it was commentary),
2. Realized a comment had been addressed by other developments (clarity about the applicability matrix, Appendix 9 in Rev. 6c, for example),
3. Disagreed with regulatory interpretations of the DW regulations (just a couple of places), or
4. Decided to leave the text to appropriately remedy the cited violations from the agreed order.

The areas we did not change as a response to comments do not conflict with EPA’s enforcement, or create a consistency issue between EPA and Ecology on our collaborative path forward.

Attached are responses to comments by number for your reference. Please let us know if you have any questions about the responses.

Next steps are to share the revised agreed order again with USDOE – you can contact John Price or John Level for an update on the schedule, more will be known in the next few days. We are also working hard internally to answer questions about how to authorize the “new” units in a way consistent with the regulations and with available resources. These are of concern to both Ecology NWP and USDOE, and will require some further discussion.

Thanks,

Kerry Graber
Hazardous Waste Inspector
(360) 481-3230
Kgra461@ecy.wa.gov